

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION.

ALONZO AUSTIN, EXECUTOR)
 FOR RUTH H. LEWIS, ESTATE)
 Plaintiff's)
 V.)

3:07-CV-138-AMT
 Capel

DEMAND FOR JURY TRIAL

MODERN WOODMEN OF AMERICA)
 PROBATE JUDGE, ALFONZA MENEFE)
 CIRCUIT JUDGE, HOWARD F. BRYAN)
 ATTORNEY: DEBORAH H. BIGGERS)
 ATTORNEY: FRED GRAY SR.)
 ATTORNEY: NATHANSON, MASON MARR)
 CITY OF TUSKEGEE, POLICE DEPT.)
 MACON COUNTY SHERIFF DEPT.)
 MONTGOMERY CITY POLICE DEPT)
 DR: ROBERT T STORY)
 ALABAMA STATE TREASURER'S OFFICE)
 ALABAMA STATE BOARD OF LICENSURE)
 ALABAMA EXCHANGE BANK)
 PRESIDENT, ROBERT DAVIS)
 SOUTHTRUST BANK AND ITS)
 PRESIDENT, REGION'S BANK)
 JUANITA K. UPSHAW, GEORGE CLAY)
 AETNA INSURANCE CO. ET AL)
 Defendants,

Compliant For Deprivation of CIVIL RIGHTS
by ALL Named Defendant, Joint Participation

Introduction

1. Plaintiff ALONZO Austin, Executor, bring this action against ALL Defendant's For Damages Arising out of an illegal Guardianship and Conservatorship Under Color of Law.

Jurisdiction

2. Plaintiff, brings this action against defendants to redress the deprivation of rights secured him by the Fourteenth Amendments to the United States Constitution, 42 U.S.C. §1983 and the Common Law.

3. Plaintiff is a CITIZEN OF ALABAMA
Each defendant is upon information and belief, a CITIZEN OF ALABAMA except.
MODERN WOODMEN OF AMERICA, A Fraternal financial Service that organize and incorporated under the Laws of ILLINOIS
With its principle office of business located at
1701 1st Avenue, Rock Island, IL 61201

The matter in controversy exceeds the sum of \$50,000⁰⁰ exclusive of interest and costs.

4. This Court has Jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1332 and 1343(a)(3) and 42 U.S.C. § 1983

5. Plaintiff also invokes Supplemental Jurisdiction of this Court over Plaintiff's state claims against defendants for common law violations pursuant to 28 U.S.C. § 1367 as the common law claims form part of the same case or controversy.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391.

Parties

7. Plaintiff, is a resident of ALABAMA

8. Defendants, ~~MODERN~~ WOODMEN OF AMERICA is a Fraternal Financial Service offering Life Insurance policies among other things, and is a resident of ILLINOIS. All other defendants are Residents of ALABAMA. Defendants are sued in their individual and official capacities. As state actors and civilians

9. At the time of the alleged Court actions at all times pertinent ~~here to~~, the defendants acted under color of Law of a Statute, ordinance, regulation, custom or usage,

Facts

10. On March 3, 1993 Probate Judge breached his duty by refusing to Certify Durable General Power of Attorney. Disclosing Some Probate Judge Alfonza Menefee then issue me a temporary Tag. See Exhibit A¹ attached Following Me to the exit Door Judge Menefee Threaten Guardianship Proceeding and told Me to take that up its No Good. Referring to the Document in question.

11. Judge Menefee began Guardianship and Conservatorship proceeding on March 18, 1993 and issued Some on April 29, 1993

Under color of Law. Depriving Plaintiff of Federally Protected 14th Amendments Civil Right Due process by Claiming Principal Ruth A. Lewis to be a ward of the State as Mentally incompetent.

and Agent, Plaintiff, No longer existed!!
under the Law of Agency..

12. Probate Judge ALFONZA MENEfee was placed on Notice that Law of Agency existed on March 3, 1993 when plaintiff attempted to file same. and he Refused.

13. per Court Record, A bond Issued For Guardian Juanita K Upshaw, of \$10,000 ~~was~~ From: Principal Lewis's Bank account. Under Color of Law. on May 10, 1993 by George H. Clay, (ALABAMA Resident Agent)

14. on 4/19/93 a Letter From General Practitioner Dr. Robert Story to Probate Judge Menefee. Stating he believed Principal Lewis to be Mentally incompetent. Under color of Law

15. On June 14, 1993 Probate Judge Menefee Received a petition From Juanita K. Upshaw to set a Side Durable General Power of Attorney Under Color of Law.

16. On July 6, 1993 Probate Judge ALFONZA Menefee Issued an order Voiding Durable General Power of Attorney Under color of Law

17. on July 22, 1993 A Petition For Rule Nisi by Juanita K. Upshaw Praying For an order upon Plaintiff to show Cause Why I shouldn't be held in contempt, under color of law

18. On the 5th day of August 1993 Plaintiff was served with a second Notice or Order of Probate Court to appear before 4:30pm on Friday August 6, 1993 to bring or file with this Court all papers, documents Keys and evidence of transfer of Vehicle Title back to Principal Lewis and: all other personal property belonging to Principal Lewis.
under color of Law.

19. per Court order on September 7, 1993 Plaintiff was issued a Judgment/order of Contempt ordering Sheriff or deputy to arrest Plaintiff because Plaintiff failed to pay \$20⁰⁰ fine imposed by Probate Judge Menefee for failure to bring Principal's Legal Papers to him. Additionally Plaintiff was jailed for a period of 24 hours for Contempt of Court pursuant to §12-13-9 Code of ALABAMA (CRIMINAL) under color of Law

20. per Court order The probate Judge Transferred Illegal Guardianship and Conservatorship to the Circuit Court Judge Howard F. Bryan. on February 24, 1994 under color of Law.

Once again approximately 5 months later Plaintiff is ordered to appear and show Cause as to why I should not be held in Contempt only this time it's in the Circuit Court on March 17, 1994 under color of Law

21. Plaintiff did appear as ordered on March 17, 1994 Where the issue of the whereabouts of Principal Ruth H. Lewis was front and center, The Circuit Judge Howard F. Bryan showed no interest in Plaintiff concerns as to the whereabouts of Principle But rather insisted on Plaintiff Giving up the title to his vehicle given to him by Principal Lewis via a Legal Title Signed by Principal Lewis Upon my repeated refusal Judge Howard F. Bryan, did hold me in Contempt also he remarked to the Audience of family Member This is One lucky Man today because if the Jail had Room he'd be Locked but because there is NO space available he walks but I am going to Divest him of this car. which he did under color of Law.

22. On or about the Last of April 1994 Plaintiff eventually located Principal Lewis who according to her had been Forceably Removed From her Residence Shortly after February 9, 1994 a day Follow my Last Visit with her While Doing some Sheet Rock Repair in her Den See attached bill For work marked exhibit "B" It was Nearly eight Weeks Later when I Found Principal in Montgomery Al. in an assisted Living facility Mason Manor placed there by Probate judge and Circuit judge Guardian Juanita K. Upshaw Keeping her from me her agents it was then that I discovered through Neighborhood Conversations that power had been Cut off From Principal's Residence the Mail Box address changed these defendants had Finally Separated the Principal and Agent and Seized all Principal's Property, Real Tangible and intangible all the papers and documents were removed including WILLS, Codicils, Durable General Power of Attorney Insurance Certificate Mail Box Key, Car Key's All the items that I was Arrested For are now in the possession of these Judges and Lawyer and Juanita Upshaw Under the color of Law.

23. The Insurance Certificate Taken From Premises by Defendants Under Color of Law belongs to Plaintiff I want it back, I also want Principal Lewis back and equally as important as all the above wants I want my CIVIL RIGHTS back my Fourteenth Amendment Due process, Federally Protected Right Can you help US anybody please!! We've BEEN Deprived very badly!!!

24. Principal Lewis died a horrible death as she was without Agent, Cousin and her possession and friends her estate was valued at Over \$250,000⁰⁰ which included 2 Homes and Approp \$150,000 in both ALABAMA Exchange Bank and Southtrust Monies were UNLAWFULLY Taken under Color of Law.

24. Whose responsible for this tragedy Agent marine corp Veteran 1965-1968, Principal School Teacher For more than 30 yrs I think it fair to say the Doctrine of Judicial Notice could help with Discovery of Embezzled Monies, Conversion of Real property Larceny, False arrest, Malicious prosecution Seizure of Various Property Kidnapping hold Principal Against her will until she died and burying her without Agent Knowledge appropriate Cause of Plaintiff injuries - Under Color of Law

25. Attorney Fred Gray Sr. and Attorney Nathanson did involved themselves in Plaintiff business affairs with respect to Ruth H. Lewis estate in early January 1995 there about their participation I believe led to again acting under color of Law Juanita K. Upshaw as Administrator of the Late Ruth H. Lewis estate which give rise to the above named Defendants. "there is and was a Legally Appointed Executors"

26. MODERN WOOD MEN OF AMERICA, did unlawfully and with malice Fraudulently transferred Plaintiff proceeds as beneficiary of some to the Treasures Office of the State of ALABAMA under the color of Law to be place under the UNCLAIM Act of ALABAMA, subject to it LAWS. on or near 2/14/05 this was Done in violation of Plaintiff 14th Amendment Civil Rights, Federally Protected, Moreover ALL the above named defendants, acted with WILLFUL and Wanton indifference to and deliberate disregard for the Statutory and Constitutional Rights of Plaintiff and deprivation of Liberty and Immunities without Due Process of Law.

27. Upon information and belief at all times pertinent hereto Probate Judge and Circuit Judge Permitted and Tolerated a pattern of Abuse of Process And actions Under color of Law depriving Persons of their 14th Amendment Constitutional Rights

COUNT I, VIOLATION OF CONSTITUTIONAL RIGHTS
Defendants

(Claim for Compensatory Damages)

28. Plaintiff incorporates herein by reference the allegations contained in paragraph 1 through 26

29. The intentional Abuse of process wherein Probate Court transferred Case to Circuit Court For review and the Malicious Arrest of Plaintiff on a Criminal Charge with Circuit Court also holding Plaintiff in Contempt while divesting Plaintiff of Legal title to vehicle and using a Criminal Statute to Create a Fraudulent Title instead for the Defendants Violated the Rights of Plaintiff as Guaranteed by the Fourteenth Amendment to the United States Constitution, for which defendants are individually Liable.

COUNT: II, VIOLATION OF CONSTITUTIONAL RIGHTS
 Defendants
 (Claim For exemplary Damages)

30. Plaintiff incorporates herein by reference the allegations contained in Paragraph 1 through 29

31. The kidnapping of Principal and holding her against her will in Montgomery at Mason Manor in order to Destroy the Legal "Law of Agency" Removing all Legal Document Unlawfully From Principals Residence Changing her mail Box P.O. Box Number in order that Plaintiff could not have access, Converted her estate unlawfully Embezzling Principals Banking account and depriving her of her Liberties and Immunities Falsely and with Intentional Malice While Separating Principal From Love one and left to die alone this was done with willful and wanton indifference to and deliberate disregard for the Constitutionally Federal Rights of Plaintiff. Plaintiff is thus entitled to exemplary Damages.

COUNT: III, VIOLATION OF STATUTORY CIVIL RIGHTS

Defendants

(Claim For Compensatory Damages)

32. Plaintiff incorporate herein by reference the allegations contained in paragraph 1 through 31

33. The kidnapping of Principal and holding her against her will in Montgomery, AL, at Mason Manor in order to destroy the Legal Law of Agency, removing ALL Legal document UNLAWFULLY From Principal's Residence, Changing her mail Box P.O. Box Number in order that Plaintiff was denied access converting her estate unlawfully Embezzling Principal's bank Account, and depriving her of her liberties and Immunities falsely and with intentional Malice while separating Principal from Cousin, Agent and other Love ones, essentially left to die Allong this was done WITH willful and Wanton indifference to and deliberate disregard for the Statutory CIVIL RIGHTS OF Plaintiff.

COUNT IV; CONSPIRACY TO VIOLATE CIVIL RIGHTS
Defendants
(Claim For Compensatory Damages)

34. plaintiff incorporates herein by reference the allegations contained in paragraph one through 33

35. Defendant conspired to violate Plaintiff's Statutory Civil Rights as more fully described in the foregoing paragraphs in violation of 42 U.S.C. § 1983 for which defendants are individually liable.

COUNT V INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
Defendants
(Claim For Compensatory Damages)

36. plaintiff incorporates herein the allegations contained in paragraphs 1 through 35

37. Defendants intentionally Harassed and Verbally abused plaintiff in a manner that was extreme, outrageous and legally unjustified and caused plaintiff to suffer physical and emotional distress for which Defendants are individually liable.

COUNT VI INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Defendants

(Claim for exemplary Damages)

38. Plaintiff incorporates herein by reference the allegations contained in paragraphs 1 through 37

39 The ~~Intentional~~ Harassment and UNLAWFUL Abuse of Plaintiff by defendants were Legally Unjustified and done with actual malice and Wanton indifference to and deliberate disregard for human Life and the rights of Plaintiff Plaintiff is thus entitled to exemplary Damages.

COUNT VII: MALICIOUS ABUSE OF PROCESS,
MALICIOUS ARREST, AND INTENTIONAL
FALSE IMPRISONMENT

40. Plaintiff incorporates herein the allegations contained in paragraphs 1 through 39

41. Defendants used Criminal Process against Plaintiff in order to intimidate him and to dissuade Plaintiff from asserting his Rights against defendants and in order to cover up their own wrongdoing and to avoid Civil and Criminal Liability for their own acts.

42. Defendants Intentionally & Falsely Arrested and Falsely Imprisoned Plaintiff.

43. Defendants Actions as stated above is proximate Cause of this Malicious abuse of process, False arrest, and false imprisonment. Plaintiff suffered the damages as aforesaid.

WHEREFORE, plaintiff request that this Court enter judgement against the defendants and Award the following amounts:

- a. \$ 2,000,000.00 compensatory damages in Favor of Plaintiff.
- b. \$ 6,000,000.00 exemplary damages in Favor of Plaintiff
- c. Cost of this action to the plaintiff (Pro-se) and
- d. Such other and further relief as the court may deem appropriate.

Alonzo Austin, Pro-se
Alonzo Austin, Pro-se
 Plaintiff

1321 Oliver-Carlis Rd.
 Tuskegee AL 36083
 Ph# (334) 727-5476

Pursuant: to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a jury Trial:

Alonzo Austin
Alonzo Austin, Pro-se
 Plaintiff
 address same as above

TEMPORARY TAG RECEIPT

Issue Fee
\$2.25

TEMPORARY TAG NO. A086052

Exhibit A

STATE OF ALABAMA
STATE DEPARTMENT OF REVENUE

This is to
certify that

Alonso Austin
Owner

RT. 3, Box 365 Tuskegee, AL. 36083
Complete Address

has paid required fee for temporary vehicle license plate.

Make Ford Vehicle Identification No. TE38144295

Model Year 78 Type of Vehicle

This the 3 day of March, 1993

Designated Agent

Judge of Probate

By:

Alfonso Menefee

Expires 20 days from date issued
MV 32-6-211 (6/89)

Erasure VOIDS this Receipt

TUSKEGEE HOME REPAIR

~~1005 Crawford Street~~ 1307 Old Hunt. Rd.
TUSKEGEE, ALABAMA 36083
(205) 727-7777

Exhibit "B"

CUSTOMER'S ORDER NO.		PHONE		DATE	
		727-5476		2/8/94	
NAME Ruth Lewis c/o Alonzo Austin					
ADDRESS 1301 Oliver - Carlos Rd Tuskegee AL 36083					
SOLD BY	CASH	C.O.D.	CHARGE	ON ACCT.	MDSE RET'D.
QTY.		DESCRIPTION		PRICE	AMOUNT
		Hang 5/8			75
		Shedrock			
		Grips - Full			
		and a			
RECEIVED BY				TAX	
Abu Bakr Habib				TOTAL	75

1608

All claims and returned goods
MUST be accompanied by this bill.

Thank You